IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1276 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 07/07/2004 in WP NO : 10499 OF 2004 on the file of the High Court.)

Between:

P.srinivas, S/o.Seetha Ramaiah,
R/o.Poola, West Godavari Dist.

..... APPELLANT

AND

1 Bonam Rama Mohana Rao, S/o.Rama Swamy,
R/o.M.M.Puram, Poola, Bhimadolu Mandal,
W.G.Dist.
2 The Registrar of Co-op.Society, Gruhakalpa,
Mozamjahi Market Road, Hyd.
3 The Pulla Co-op. Rural Bank Ltd., Bhimadola Mandal,
West Godavari District.
4 The Dist.Co-op. Central Bank, W.G.Dist., rep.by its
General Manager,Eluru.

.....RESPONDENTS

Counsel for the Appellant : MR.Y.V.SRINIVASAN

Counsel for the Respondent No.1 : None appeared.

Counsel for the respondent No.2: G.P. for Cooperation.

Counsel for the respondent No.3: Mr. M.J. Sarma.

Counsel for the respondent No.4: Mr. K. Chidambaram.

The Court made the following :

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ORAL JUDGMENT:

(Per Hon'ble The Chief Justice)

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1. This appeal was preferred by the appellant with leave of the Court since he was not a party to the writ petition.

2 . The appellant was the President of the erstwhile Committee of Management of Pulla Co-op. Rural Bank Limited and has filed this appeal aggrieved by the order passed by the learned single Judge on 07.07.2004 disposing of writ petition filed by 1st respondent herein. By the order impugned in the appeal, learned single Judge directed the Registrar, Cooperative Societies, to consider the representation of the writ petitioner dated 01.04.2003 and pass appropriate orders for conducting necessary enquiry in terms of Section 51 of A.P. Cooperative Societies Act, 1964 (for

short ‘the Act’) with reference to the alleged irregularities said to have been committed by the erstwhile Management of 2nd respondent - Bank. The representation was directed to be disposed of expeditiously within a period of four weeks.

3. Grievance of the appellant is that the writ petitioner could not have invoked the jurisdiction of this court in seeking direction for holding enquiry under Section 51 of the Act. Petitioner is not one of the persons who could have sought enquiry into the constitution, working and financial condition of a society and thus directions issued are liable to be set aside.

4. We have heard counsel for the parties and gone through the record. It is not disputed that writ petitioner is not one of the persons mentioned in Section 51 of the Act who could have sought an enquiry into the constitution, working and financial condition of a society. Enquiry can be sought for on an application of the society, or by not less than one third of the members of the Committee, or of not less than one fifth of the total number of members of the Society. Even the Registrar, on his own motion, can hold an enquiry or direct some person authorised by him by an order in that behalf to hold enquiry. At the most the representation of the writ petitioner would be an information with the Registrar.

Whether on the basis of the said information, as contained in the representation of the writ petitioner, writ petitioner’s representation would or

would not be sufficient for the Registrar to take a decision for holding an enquiry himself or direct someone to hold enquiry under Section 51 of the Act into the constitution, working and financial condition of the society would be a question which has to be decided by the Registrar himself and not by anybody else. Court could not have passed an order laying a particular course of action to be adopted by the Registrar in that behalf. At the most direction could have been only to consider the representation of the writ petitioner and to take decision thereupon. No further direction could have been issued. As such, we are of the view that the impugned order would be liable to be modified by setting that part of the order which directs to pass orders for conducting necessary enquiry in terms of Section 51 of the Act.

5. In the result, writ appeal is allowed. Impugned order is modified holding that writ petition of the first respondent herein stands allowed with direction to the Registrar, Cooperative Societies, to consider the

representation of the writ petitioner dated 01.04.2003 and pass appropriate orders thereon in accordance with law within four weeks from the date of receipt of a copy of this judgment from this Court. No costs.

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DEVINDER GUPTA. C.J.,

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C.V. RAMULU. J.,

Dated: 19.08.2004.

VRK.

To

1. The Registrar of Cooperative Societies, Gruhakalpa, Mozamjahi Market Road, Hyderabad.

2. The Pulla Co-op. Rural Bank Limited, Bhimadole Mandal, West Godavari District.

3. The General Manager, District Cooperative Central Bank, West Godavari District.

4. Two CCs to G.P. for Cooperation, High Court Buildings, Hyderabad (OUT).

5. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE C.V. RAMULU.

W.A.NO. 1276 OF 2004.

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(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 19.08.2004.